



Senate

General Assembly

February Session, 2010

File No. 335

Senate Bill No. 105

Senate, April 7, 2010

The Committee on Public Health reported through SEN. HARRIS of the 5th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING LIABILITY OF NURSING HOME OWNERS
FOR NEGLECT AND ABUSE OF NURSING HOME RESIDENTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-528a of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2010*):

3 For any application of licensure for the acquisition of a nursing
4 home filed after July 1, 2004, any potential nursing home licensee or
5 owner [must] shall submit, in writing, a change in ownership
6 application with respect to the facility for which the change in
7 ownership is sought. The Department of Public Health shall prepare
8 the change in ownership application which shall include the following
9 statement printed in no less than eighteen-point boldface type of
10 uniform font on the first page of the application: "NOTICE: Any
11 nursing home licensee or owner, including, but not limited to, an
12 officer, director, trustee, limited partner, managing partner, general
13 partner or any person having at least a ten per cent ownership interest
14 in the owner, as well as any administrator, assistant administrator,

15 medical director, director of nursing or assistant director of nursing,
16 may be subject to criminal liability, in addition to civil and
17 administrative sanctions under federal and state law, for the abuse or
18 neglect of a resident of the nursing home perpetrated by an employee
19 of the nursing home." Such application shall [include whether] require
20 such potential nursing home licensee or owner to disclose whether the
21 licensee or owner (1) has had civil penalties imposed through final
22 order of the commissioner in accordance with the provisions of
23 sections 19a-524 to 19a-528, inclusive, or civil penalties imposed
24 pursuant to the statutes or regulations of another state, during a two-
25 year period, (2) has had in any state intermediate sanctions imposed
26 through final adjudication under the Medicare or Medicaid program
27 pursuant to Title XVIII or XIX of the federal Social Security Act, 42
28 USC 301, as from time to time amended, or (3) has had in any state
29 such potential licensee's or owner's Medicare or Medicaid provider
30 agreement terminated or not renewed. [,] The commissioner shall not
31 approve such application to acquire another nursing home in this state
32 for a period of five years from the date of final order on such civil
33 penalties, final adjudication of such [intermediate] sanctions, or
34 termination or nonrenewal, except for good cause shown.
35 [Notwithstanding, the provisions of this section, the Commissioner of
36 Public Health, may for good cause shown, permit a potential nursing
37 home licensee or owner to acquire another nursing home prior to the
38 expiration of said five-year period.]

39 Sec. 2. (NEW) (*Effective October 1, 2010*) The Department of Public
40 Health shall prepare a notice that includes the following statement
41 printed in no less than eighteen-point boldface type of uniform font:
42 "NOTICE: Any nursing home licensee or owner, including, but not
43 limited to, an officer, director, trustee, limited partner, managing
44 partner, general partner or any person having at least a ten per cent
45 ownership interest in the owner, as well as any administrator, assistant
46 administrator, medical director, director of nursing or assistant
47 director of nursing, may be subject to criminal liability, in addition to
48 civil and administrative sanctions under federal and state law, for the
49 abuse or neglect of a resident of the nursing home perpetrated by an

50 employee of the nursing home." Such notice shall be provided no later
51 than January 1, 2011, to all persons who have been issued a license to
52 establish, conduct, operate or maintain a nursing home in the state by
53 the Department of Public Health as of September 30, 2010.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	19a-528a
Sec. 2	<i>October 1, 2010</i>	New section

AGE *Joint Favorable C/R*

PH

PH *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill, which requires the Department of Public Health to include a statement within its change of nursing home ownership licensure applications and provide notice of criminal liability to certain licensees, does not result in a fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**SB 105*****AN ACT CONCERNING LIABILITY OF NURSING HOME OWNERS FOR NEGLECT AND ABUSE OF NURSING HOME RESIDENTS.*****SUMMARY:**

This bill requires the Department of Public Health (DPH) to prepare a written application form for changes in nursing home ownership that includes a statement notifying the potential nursing home licensee or owner that he or she may be held criminally liable for abuse or neglect of a resident by a nursing home employee. Specifically, it requires the following statement to be placed at the top of the first application page in at least 18-point bold font type:

“NOTICE: Any nursing home licensee or owner, including, but not limited to, an officer, director, trustee, limited partner, managing partner, general partner or any person having at least a 10% ownership interest in the owner, as well as any administrator, assistant administrator, medical director, director of nursing or assistant director of nursing, may be subject to criminal liability, in addition to civil and administrative sanctions under federal and state law, for the abuse or neglect of a resident of the nursing home perpetrated by an employee of the nursing home.”

The bill requires DPH to prepare and provide a written copy of the above statement to anyone who, as of September 30, 2010, held a DPH license to establish, conduct, operate, or maintain a nursing home in the state. This notice must be printed in at least 18-point bold font type and provided to these licensees by January 1, 2011.

Finally, the bill makes a minor change that specifically requires license applicants and potential owners to disclose whether (1) any

civil penalties or intermediate sanctions have been imposed on them or (2) they had their Medicaid or Medicare provider agreement terminated or not renewed.

EFFECTIVE DATE: October 1, 2010

BACKGROUND

DPH Applications For Nursing Home Ownership Changes

By law, DPH must approve changes in nursing home ownership. The prospective owner's or licensee's written application must include whether the potential nursing home licensee or owner (1) has had civil penalties for nursing home violations imposed by DPH or another state during any two-year period or (2) received intermediate Medicare or Medicaid sanctions or had their provider agreements for these programs terminated or not renewed. The law prohibits the DPH commissioner from approving an application to acquire a nursing home for a five-year period if any of these conditions are present, unless good cause is shown (CGS § 19a-528).

Evaluation Period for New Licensees

If a person has not operated a nursing home in Connecticut before, DPH can institute an "evaluation period" of up to five years from the time of initial licensure in order to assess the standard of care the nursing home provides. During this evaluation period, the person is prohibited from acquiring any additional nursing homes (CGS § 19a-493a).

COMMITTEE ACTION

Select Committee on Aging

Joint Favorable Change of Reference
Yea 9 Nay 2 (02/18/2010)

Public Health Committee

Joint Favorable
Yea 31 Nay 0 (03/24/2010)